

LEONARD V. CHEW

IBLA 70-114

Decided April 30, 1971

Oil and Gas Leases: Applications: Sole Party in Interest

Where an oil and gas lease offer, filed on a drawing entry card in a simultaneous filing procedure, contains the name of a party in interest other than the offeror, and the required statement of interest, copy of explanation of the agreement between the parties, and evidence of the qualifications of the additional party to hold such interest are not filed within the time allowed by the Department's regulations, the offer is properly rejected even though the offeror's noncompliance is due entirely to his misunderstanding of the applicable filing procedures.

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LEONARD V. CHEW

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: Noncompetitive oil and gas
: lease offer rejected
: Affirmed

DECISION

Leonard V. Chew has appealed to the Secretary of the Interior from a decision of November 17, 1969, by the Office of Appeals and Hearings, Bureau of Land Management, affirming the Wyoming land office rejection of Chew's noncompetitive oil and gas lease offer.

On April 28, 1969, Leonard V. Chew submitted a simultaneous oil and gas drawing and entry card for 40 acres, labeled parcel 184, located in Sweetwater County, Wyoming. On the reverse side of his drawing card, under the caption "Other Parties In Interest," Chew inserted the name "Alta Chew," his wife.

The land office rejected his offer on May 29, 1969. Chew was advised that his offer had not been properly completed in accordance with 43 CFR 3123.2(c)(3), 1/ in that a statement had not been attached or forwarded within 15 days showing the nature and extent of the interest of Alta Chew in the lease offer.

The Chews then submitted a notarized "Statement of Interest" and a "Release" form to the land office. The "Statement" recited the fact that on April 26, 1969, Mrs. Chew had released to her husband all interest in the lease in question. The "Release" verified that fact. In an accompanying letter, Mrs. Chew noted that the "Statement" had not been submitted earlier due to confusion on their part as to the correct procedure to be followed.

1/ Now 43 CFR 3102.7, 35 F.R. 9680.

Chew's appeal to the Director of the Bureau of Land Management was based upon several grounds. His primary contention was that the information regarding the proper execution of a lease offer had never been furnished him by the land office, though he had repeatedly requested same. He further noted that the form letter received by him rejecting his offer stated that Form 4-1664 had been improperly completed, when, in fact, the form used by Chew was Form 3120-21. Finally, he argued that there are no regulations prohibiting a party in interest from relinquishing that interest "either before or after a drawing."

In affirming the decision, the Office of Appeals and Hearings dismissed Chew's contention as being insufficient to overcome the mandatory consequences of his failure to heed the requirements of § 3123.2(c)(3), 2/ namely, that an offer must be rejected where the offeror has not submitted a supplemental statement regarding other interested parties. It also noted that unfamiliarity with filing requirements is no excuse for their omission, citing Robert M. Henderson, A-29669 (September 17, 1963). Thus, it concluded that failure to furnish the requisite statement was proper.

In his appeal to the Secretary, Chew incorporates the argument in his prior appeal 3/. Additionally, he alleges that due to the relatively small tract for which his offer had been tendered, the land office was arbitrary and discriminatory in enforcing the Departmental regulations against him, while, at the same time, overlooking alleged multiple bidding violations by large corporate interests.

The drawing entry card utilized by the Chews to file their offer for the lands in question is free from ambiguous or confusing language. The front side of the card contains the agreement entered into by the offeror:

Undersigned hereby offers to lease for oil and gas all or any portion of the above-identified parcel of land which may be available for noncompetitive leasing, and certifies that the: . . . (3)
applicant is the sole

2/ See note 1, supra.

3/ Filed with the Bureau of Land Management on July 7, 1969.

party in interest in this offer and the lease if issued, or if not the sole party in interest, that the names and addresses of all other interested parties are set forth on the reverse hereof.

Chew signed the card below those provisions and, on the reverse side of the card, under the clearly printed heading, "Other Parties In Interest," he inserted the name "Mrs. Alta Chew," and noted that she resided at the "same address" (obviously referring to the address appearing under his name on the front side of the card).

At the bottom of the reverse side of the card, set apart from any other wording, appeared the following:

NOTE: Compliance must be made with the provisions of 43 CFR 3123.2.

The cited regulation sets forth the requirements for filing an oil and gas lease offer and what information must accompany such an offer when filed. The regulation 4/ read in part:

Each offer, when first filed, shall be accompanied by:

....

(c)(3) A signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; if not he shall set forth the names of the other interested parties. If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer; the nature of the agreement between them if oral, and a copy of such agreement if written. . . . Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer.

4/ See note 1, supra.

The language of the regulation is clear and unequivocal, the obligation imposed is mandatory. An offer which does not comply with it must be rejected.

In Richard C. Cook, Ray La Frenere, 73 I.D. 145 (1966), a case on point with the one now before us, it was held that an offer filed on a drawing entry card is properly rejected when the statement required by 43 CFR 3123.2(c)(3) was not timely filed. In a subsequent case it was held that even where a name was mistakenly submitted as being that of another party in interest, and that mistake is later proven and cured, the offer is properly rejected where the required statement noting respective interests was not filed within the required 15 days. Lorraine Lafiner, A-31002 (May 16, 1969). Accord, Gill Oil Company, 2 IBLA 18 (1971); Dominic J. Repici et al., 2 IBLA 14 (1971); E. S. Lippert, A-31173 (May 14, 1970).

As to appellant's other contention regarding discrimination by the Department and wrongdoing by other individuals, we can say only that even if Chew is correct in his view that certain corporations have violated regulation 43 CFR 3123.3(a) 5/ in the submission of their offers, their violation cannot cure the defect in his offer.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F.R. 12081), the decision appealed from is affirmed.

Martin Ritvo, Member

We concur:

Joan B. Thompson, Member

Edward W. Stuebing, Member.

5/ Now 43 CFR 3112.5-2, 35 F.R. 9692.

